IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO : 12331 of 2005

Between:

B. Prakash Kumar, S/o. B. Rajesham,
18-98/1, Kamala Nagar, Dilsukhnagar, Hyderabad - 500 060.

..... PETITIONER

AND

1 The Managing Director, The A.P. State Co-operative Bank Ltd.,
Troop Bazar, Hyderabad - 500 001.
2 General Manager (Vigilance) (Officiating), The A.P. State Co-operative

Bank Ltd., Troop Bazar, Hyderabad - 500 001.
3 Deputy Manager (Vigilance) (Officiating), The A.P. State Co-operative

Bank Ltd., Troop Bazar, Hyderabad - 500 001.
4 Vigilance Cell, The A.P. State Co-operative Bank Ltd.,
Rep by its General Manager (Vigilance) (Officiating), Troop Bazar,

Hyderabad - 500 001.
5 The A.P. State Co-operative Bank Ltd.,
Rep by its Managing Director, Troop Bazar, Hyderabad - 500 001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ one in the nature of Prohibition and any other appropriate Writ, Order or direction, i) Calling for the records in connection with the show Cause Notice bearing Reference No. VC/DA-139/657 dated 21-4-2005, ii) calling for the records in connection with the Note Orders No.Bkg/BRCC/110 dated 30.09.2000, iii) Calling for the records in connection with Letter No. Dos/Br.Inspection/DSNR/7, dt. 11-1-03 of the CGM/CVO, iv) Declaring the Charge Memorandum No. VC-DA-139/140 dated 18-8-2003, Order No. VC/DA-139/427 dated 2-7-2004 appointing enquiry officer and show cause notice bearing Reference No. VC/DA-139/657 dated 21-4-2005 as arbitrary, abuse of statutory powers, illegal, actuated by malafide, ultravires Service

Regulations, unlawful, issued without jurisdiction and violation of Articles 14 and 21 of the constitution of India and prohibit the respondents proceeding further pursuant to the Show Cause Notice bearing Reference No. VC/DA/139/657 dated 21-4-2005, v) to pass perpetual injunction restraining the 2nd, 3rd the 4th respondents from interfering unlawfully in the disciplinary proceedings of the petitioner.

Counsel for the Petitioner: MR.Y.SRINIVASA MUKHERJEE

Counsel for the Respondents: MR.A.H.RAMA KRISHNA RAO

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioner, who is an employee of the A.P.State Cooperative Bank Ltd., on various grounds, such as the show cause notice was issued by an incompetent authority, the enquiry was also initiated and ordered by an incompetent authority. As the proceedings were initiated by the incompetent authority from the beginning, the show cause notice was issued proposing to differ with the conclusions of the enquiry officer as to the charges framed against the petitioner and proposing to take disciplinary action as provided under SR No.48 read with SR No.52 as illegal and without jurisdiction.

According to the petitioner, as the entire proceedings initiated and taken up by the incompetent authority, the proceedings are liable to be quashed by issuing appropriate writ. Hence, he sought for quashing the same.

Prima facie, the show cause notice was issued by the Managing Director, who is stated to be the competent authority to initiate disciplinary proceedings under the Regulations. As the competency of the Managing Director was disputed by the learned counsel for the petitioner, the learned Standing Counsel appearing for the respondents was directed to place appropriate Regulations governing the issue.

Accordingly, today, at the time of hearing, the learned Standing Counsel placed the amended Regulations, which came into force from 21.07.2004. As per the amended Regulations, the competent authority to initiate disciplinary proceedings against the employees

(i.e., Assistants) of the respondent-Bank is the Managing director. Therefore, it is stated by the learned Standing Counsel that the Managing Director is the competent authority to pass appropriate orders as a disciplinary authority. The learned Standing Counsel also brought to the notice of this Court Clause (ii) of the amended Regulations, which reads as under:

> "Notwithstanding anything contained above, the Managing Director is the appointing authority for the purpose of imposing penalties of Dismissal, Termination/Removal etc., as mentioned under SR No.52 specifically for the purpose of disposal of disciplinary cases of employees."

Therefore, the learned Standing Counsel contended that the Managing Director is the competent authority to impose punishment as contemplated under SR No.52. Therefore, the show cause notice issued is without any incompetency. The learned Standing Counsel also contended that the writ petition is filed against the show cause notice. As it is open to the petitioner to raise all the objections in his explanation before the disciplinary authority, who is obligated to consider the explanation filed by the petitioner and the objections raised before passing any orders, therefore it is premature at this stage to assail the show cause notice. The learned Standing Counsel also relied upon a decision of a Division Bench of this Court in W.A.No.1388 of 2004, wherein this Court confirmed the orders of a learned Single Judge in an identical matter, where the writ petition filed against a show cause notice was dismissed in limini.

Heard both sides.

In view of the above Regulations as well as the legal position and further as it is only at the stage of show cause notice, it is open to the writ petitioner to submit his explanation taking all the objections that are available to him under law. If such explanation is submitted, the first respondent, who issued the show cause notice, is obligated to consider all such objections and pass appropriate orders after considering those objections including the objection with reference to lack of jurisdiction.

The writ petition is accordingly dismissed. No costs.

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20.06.2005

VGB

To

1 The Managing Director, the A.P. State Co-operative Bank Ltd.,
Troop Bazar, Hyderabad - 500 001.
2 The General Manager (Vigilance) (Officiating), The A.P. State Co-operative

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